

CLOSED

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:03-cv-02559-LAK**

National Council, et al v. Dept. of Justice
Assigned to: Judge Lewis A. Kaplan
Demand: \$0
Cause: 05:552 Freedom of Information Act

Date Filed: 04/14/2003
Date Terminated: 11/14/2005
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

National Council of La Raza

represented by **Omar C. Jadwat**
American Civil Liberties Union, Women's
Rights Proj
125 Broad Street
New York, NY 10004
(212) 549-2620
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LEAD ATTORNEY

Plaintiff

New York Immigration Coalition

represented by **Omar C. Jadwat**
(See above for address)
LEAD ATTORNEY

Plaintiff

**American Immigration Lawyers
Association**

represented by **Omar C. Jadwat**
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LEAD ATTORNEY

Plaintiff

National Immigration Law Center

represented by **Omar C. Jadwat**
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Plaintiff

National Immigration Forum

represented by **Omar C. Jadwat**
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Plaintiff

**National Immigration Project of the
National Lawyers Guild**

represented by **Omar C. Jadwat**
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LEAD ATTORNEY

Plaintiff

**Massachusetts Immigrant and Refugee
Advocacy Coalition**

represented by **Omar C. Jadwat**
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V.

Defendant

Department of Justice

represented by **Sarah S. Norman**
Office of the U.S. Attorney
Southern District of New York

100 Church Street
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New York, NY 10007
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Date Filed	#	Docket Text
04/14/2003	1	COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # 470150. (gf) (Entered: 04/15/2003)
04/14/2003	2	RULE 7.1 CERTIFICATE filed by National Council, NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm. . (gf) (Entered: 04/15/2003)
04/14/2003		Magistrate Judge Frank Maas is so designated. (gf) (Entered: 04/15/2003)
04/16/2003	3	RETURN OF SERVICE of summons and complaint executed by leaving at One St. Andrews Plaza, NY, NY on 4/14/03. (sb) (Entered: 04/21/2003)
04/16/2003	4	AFFIDAVIT OF SERVICE of summons and complaint as to Dept. of Justice by certified mail on 4/14/03. Government Answer due on 6/13/03 for Dept. of Justice. (sb) (Entered: 04/21/2003)
04/16/2003	5	AFFIDAVIT OF SERVICE of summons and complaint by Attorney General by certified mail on 4/14/03. (sb) (Entered: 04/21/2003)
04/23/2003	6	SCHEDULING ORDER: Pretrial conference for 11:00 a.m. on 5/20/03. (signed by Judge Lewis A. Kaplan); (jco) (Entered: 04/24/2003)
04/29/2003	7	AMENDED COMPLAINT by National Council, NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm. (Government Answer due on 5/9/03 for Dept. of Justice) amending [1-1] complaint; Summons issued. (cd) (Entered: 05/01/2003)
05/14/2003	8	ANSWER to Complaint by Dept. of Justice (Attorney Sarah S. Norman). (moc) (Entered: 05/16/2003)
06/02/2003	10	Memorandum to Docket Clerk: Pretrial conference held and concluded on 6/2/03. (ph) (Entered: 06/17/2003)
06/02/2003		PRETRIAL CONFERENCE held on 6/2/03 before Judge Lewis A. Kaplan. (ph) (Entered: 06/17/2003)
06/05/2003	9	ORDER, the defendant shall move for summary judgment by 7/25/03. The plaintiff shall file an opposition brief by 8/25/03. The defendant shall file a repl brief by 9/8/03. Discovery in this case is stayed pending decision on the motion for summary judgment . (signed by Judge Lewis A. Kaplan); (kw) (Entered: 06/09/2003)
07/25/2003	11	NOTICE OF MOTION by Dept. of Justice for an Order granting summary judgment in favor of defendant pursuant to FRCP 56 . Return Date not indicated. Statement pursuant to Local Civil Rule 56.1, declarations of Sarah S. Normand, Melanie A. Pustay, M. Edward Whelan, III attached. (yv) (Entered: 07/30/2003)
07/25/2003	12	MEMORANDUM OF LAW by Dept. of Justice in support of [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56. Received in night deposit box on 7/25/03 at 5:59 p.m. (yv) (Entered: 07/30/2003)
08/22/2003	13	Memo-Endorsement on letter addressed to Judge Kaplan from Sarah S. Normand, dated 8/20/03. counsel on behalf of all parties request a modification of the scheduling order such that plaintiffs' opposition papers will be due on or before 9/12/03 re: [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56 and, defendant's reply papers will be due on or before 10/3/03 re: [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56. Application granted . (signed by Judge Lewis A. Kaplan); (yv) (Entered: 08/26/2003)

09/12/2003	14	MEMORANDUM OF LAW by National Council, NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm. in opposition to [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56 . (sb) (Entered: 09/17/2003)
09/12/2003	15	DECLARATION of Omar C. Jadwat by National Council, NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm. in opposition to [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56. (sb) (Entered: 09/17/2003)
10/03/2003	16	REPLY MEMORANDUM by Dept. of Justice re: [11-1] motion for an Order granting summary judgment in favor of defendant pursuant to FRCP 56 . (cd) (Entered: 10/07/2003)
10/03/2003	17	DECLARATION of Sarah Normand by Dept. of Justice in support Re: [16-1] reply memorandum . (cd) (Entered: 10/07/2003)
10/03/2003	18	SUPPLEMENTAL DECLARATION of M. Edward Whelan III by Dept. of Justice in support Re: [16-1] reply memorandum . (cd) (Entered: 10/07/2003)
10/03/2003	19	SECOND DECLARATION of Melanie Ann Pustay by Dept. of Justice in support Re: [16-1] reply memorandum . (cd) (Entered: 10/07/2003)
10/07/2003	20	Memo-Endorsement on letter addressed to Judge Kaplan from Sasrah S. Normand, dated 10/1/03: Granting defendant USDOJ's request for leave to file it's reply memorandum of law in support of its motion for summary judgment of up to 15 pages . (signed by Judge Lewis A. Kaplan). (tp) (Entered: 10/08/2003)
11/12/2003	21	NOTICE OF MOTION by National Council, NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm. for leave to file a supplemental Declaration and Supplemental Memorandum of Law in further opposition to defendant's motion for summary judgment. Attached is Declaration in support. (djc) (Entered: 11/17/2003)
11/12/2003	22	MEMORANDUM OF LAW by NY Immigration, American Imm., National Imm., National Immigration, Nat'l Imm. Project, Massachusetts Imm., Dept. of Justice in support of [21-1] motion for leave to file a supplemental Declaration and Supplemental Memorandum of Law in further opposition to defendant's motion for summary judgment. Attached is Declaration in support. . (djc) (Entered: 11/17/2003)
09/23/2004	23	ORDER granting 21 Motion for Leave to File Document . (Signed by Judge Lewis A. Kaplan on 9/22/04) copies sent by chambers.(cd,) (Entered: 09/27/2004)
09/27/2004	24	MEMORANDUM AND OPINION # 90689 re: 11 Motion for Summary Judgment filed by Department of Justice...The defendant's motion for summary judgment dismissing the complaint (docket item 11) is granted to the extent that the plaintiffs' first claim for relief is dismissed insofar as it relates to documents numbered 1 through 22 inclusive, 26 and 27. The motion for summary judgment is denied in all other respects. The defendant is directed to produce documents 23 through 25, on or before 10/12/04, for in camera inspection. Plaintiffs are entitled to summary judgment with respect to document 28, and the defendant is directed to produce that document on or before 10/12/04. (Signed by Judge Lewis A. Kaplan on 9/24/04) "copies mailed by chambers".(rag,) (Entered: 09/28/2004)
09/28/2004		Transmission to Judgments and Orders Clerk. Transmitted re: 24 Memorandum & Opinion,,, Terminate Motions,,, to the Judgments and Orders Clerk for preparation of Judgment. (rag,) (Entered: 09/28/2004)
10/07/2004	25	MOTION for an order granting reconsideration of the court's memorandum opinion dated 9/24/04, for a stay pending consideration of appeal. Document filed by Department of Justice. (dle,) (Entered: 10/12/2004)
10/07/2004	26	MEMORANDUM OF LAW in Support re: 25 MOTION for Reconsideration.. Document filed by Department of Justice. (dle,) (Entered: 10/12/2004)

10/12/2004	27	RESPONSE to Motion re: 25 MOTION for Reconsideration. Document filed by National Council of La Raza. (cd,) (Entered: 10/14/2004)
10/13/2004	30	ORDER; that dft. Shall submit the OLC opinion to the court for in camera inspection no later than 10/14/04; The Dft's obligation to produce the document to the plaintiffs is stayed to and including 10/24/04 to permit further reconsideration of whether to appeal. The Court will indicate whether a further stay will be granted when it rules on the motion for reconsideration following in camera inspection. (Signed by Judge Lewis A. Kaplan on 10/12/04) (pl,) (Entered: 10/16/2004)
10/14/2004	28	MEMORANDUM OPINION # 90779. defendant's motion for reconsideration is granted to the extent indicated in this Memorandum Opinion. On reconsideration, the Court adheres to its original decision in all respects save that: 1. Defendant shall produce to plaintiffs, on or before 10/19/04, the portions of documents 23 and 24 that the Dept. previously had marked as exempt, and those portions of document 28 marked "disclose" on copies of that document that will be furnished to counsel for the defendant and filed under seal. 2. Defendant's motion for summary judgment dismissing the complaint is granted also insofar as plaintiffs seek production of document 25. 3. Defendant's motion for a stay is granted to the extent that defendant's obligation to produce document 28, as redacted, is stayed until 4:30 p.m. on 10/24/04. The unredacted copies of documents 23-25 will be filed under seal. (Signed by Judge Lewis A. Kaplan on 10/14/04) (ae,) (Entered: 10/14/2004)
10/14/2004	29	MEMORANDUM OPINION (Corrected) # 90689. The defendant's motion for summary judgment dismissing the complaint [docket item 11] is granted to the extent that the plaintiffs' first claim for relief is dismissed insofar as it relates to documents numbered 1 through 22 inclusive, 26 and 27. The motion for summary judgment is denied in all other respects. The defendant is directed to produce documents 23 through 25, on or before 10/12/04, for in camera inspection. Plaintiffs are entitled to summary judgment w/ respect to document 28, and the defendant is directed to produce that document on or before 10/12/04. (Signed by Judge Lewis A. Kaplan on 10/14/04) (ae,) (Entered: 10/14/2004)
10/21/2004	32	NOTICE OF INTERLOCUTORY APPEAL from 29 Memorandum & Opinion,,. Document filed by Department of Justice. Copies of Notice of Interlocutory Appeal mailed to Attorney(s) of Record: OMAR C. JADWAT. (USA NO FILING FEE DUE)(pr,) (Entered: 10/22/2004)
10/21/2004		Transmission of Notice of Appeal to the District Judge re: 32 Notice of Interlocutory Appeal. (pr,) (Entered: 10/22/2004)
10/21/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 32 Notice of Interlocutory Appeal. (pr,) (Entered: 10/22/2004)
10/21/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 32 Notice of Interlocutory Appeal. (pr,) (Entered: 10/22/2004)
11/05/2004	33	ORDER of USCA (Certified Copy) USCA Case Number 04-5474-cv. Motion for partial stay of district court disclosure, order pending consideration of appeal & expedited briefing schedule & argument. ORDERED that a temporary stay is GRANTED pending submission of the motion for a stay to a panel of the court at 10 am Tuesday 11/2/04. MACKECHNIE, Clerk USCA. Certified: 10/26/04. (pr,) (Entered: 11/05/2004)
11/05/2004		Appeal Remark as to 32 Notice of Interlocutory Appeal filed by Department of Justice USCA Case Number 04-5474-cv: Copy sent to Judge. (pr,) (Entered: 11/05/2004)
11/18/2004	34	LETTER addressed to Judge Lewis A. Kaplan from Omar C.Jadwat dated 11/18/04 re: Plaintiffs letter in brief response to defendant's contention that its filing of an interlocutory notice of appeal deprives this Court of jurisdiction to consider plaintiffs' 11/15/04 request. Document filed by American Immigration Lawyers Association, Massachusetts Immigrant and Refugee Advocacy Coalition, National Council of La Raza, National Immigration Forum, National Immigration Law Center, National Immigration Project of the National Lawyers Guild, New York Immigration Coalition.(sac,) (Entered: 11/23/2004)

11/18/2004	35	LETTER addressed to Judge Lewis A. Kaplan from Omar C. Jadwat dated 11/15/04 re: Plaintiffs request that the Court require defendant to describe briefly the portion of the 2002 OLC opinion that the 10/14/04 opinion of this Court permits the government to redact. Document filed by American Immigration Lawyers Association, Massachusetts Immigrant and Refugee Advocacy Coalition, National Council of La Raza, National Immigration Forum, National Immigration Law Center, National Immigration Project of the National Lawyers Guild, New York Immigration Coalition.(sac,) (Entered: 11/23/2004)
11/18/2004	36	LETTER addressed to Judge Lewis A. Kaplan from Sarah S. Normand dated 11/17/04 re: defendant United States Department of Justice in opposition to plaintiff's letter application dated 11/15/04. Document filed by Department of Justice.(sac,) (Entered: 11/23/2004)
11/23/2004	37	MEMORANDUM OPINION #90912; re: plaintiffs' application is granted. The defendant shall supplement its Vaughn index with respect to the 2002 OLC memorandum as indicated above no later than 12/3/04. (Signed by Judge Lewis A. Kaplan on 11/22/04) Copies Mailed By Chambers.(sac,) (Entered: 11/24/2004)
12/09/2004	38	USCA SCHEDULING ORDER as to 32 Notice of Interlocutory Appeal filed by Department of Justice USCA Case Number 04-5474-cv. Roseann B. MacKechnie, Clerk USCA. Appeal Record due by 12/27/2004. Appellant Brief due by 1/3/2005. Appellee Brief due by 2/2/2005. (dt,) (Entered: 12/09/2004)
12/22/2004	39	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for 32 Notice of Interlocutory Appeal filed by Department of Justice USCA Case Number 04-5474, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp,) (Entered: 12/22/2004)
07/29/2005	40	MANDATE of USCA (Certified Copy) as to 32 Notice of Interlocutory Appeal filed by Department of Justice, USCA Case Number 04-5474-cv. Ordered, Adjudged and Decreed that the judgment of the District Court is AFFIRMED in accordance with the opinion of this court. Roseann B. MacKechnie, Clerk USCA. Issued As Mandate: 7/22/2005. (nd,) (Entered: 08/01/2005)
08/23/2005	41	ENDORSED LETTER addressed to Judge Lewis A. Kaplan from Omar C. Jadwat dated 8/19/05 re: Plaintiffs seeks an extension with the consent of the government so that the parties may attempt to resolve all issues relating to costs and attorneys' fees without the need for further litigation or other involvement of the Court. ENDORSEMENT: granted (Signed by Judge Lewis A. Kaplan on Lewis A. Kaplan) (js,) (Entered: 08/26/2005)
10/05/2005	42	ENDORSED LETTER: addressed to Judge Lewis A. Kaplan from Omar C. Jadwat dated 10/4/05 re: The parties now jointly request that the Court further extend that time up to and including 11/7/05 so that they may continue to discuss a resolution of these issues. ENDORSEMENT: GRANTED no further extensions. (Signed by Judge Lewis A. Kaplan on 10/5/05) (js,) (Entered: 10/06/2005)
11/14/2005	43	STIPULATION AND ORDER OF DISMISSAL; defendant has fully complied with the 9/24/04 and 10/14/04 opinions of this Court and the 5/31/05 opinion of the Court of Appeals. Plaintiffs agree to accept release of the 2002 OLC Opinion and the E-mail documents in full settlement and satisfaction of any and all claims and demands. The United States shall pay to the "American Civil Liberties Union Foundation-Immigrants' Rights Project" the sum of \$103,500.00 in full settlement of any and all claims. This action is hereby dismissed with prejudice, subject to the payment of attorney's fees as required in paragraph 4. (Signed by Judge Lewis A. Kaplan on 11/8/05) (kco,) (Entered: 11/15/2005)
11/15/2005		Transmission to Judgments and Orders Clerk. Transmitted re: 43 Stipulation and Order of Dismissal to the Judgments and Orders Clerk. (kco,) (Entered: 11/15/2005)